

REMARKS

At the time the present Office Action was mailed (June 25, 2008), claims 1, 4-7, 9-23, 25-27, 32-43, 45-55, 61-70, 72-76 and 78-89 were pending. In this response, claims 13, 21, 48, 62, 64, 72, 73, 75, 76, 79-81, 83 and 87-89 have been cancelled, and claims 1, 4-7, 9-12, 14-19, 32, 40, 47, 52, 54, 61, 63, 65-70, 78, 82 and 84-86 have been amended, without prejudice to pursuing these claims in unamended or other forms in a continuation or other application. Accordingly, claims 1, 4-7, 9-12, 14-20, 22, 23, 25-27, 32-43, 45-47, 49-55, 61, 63, 65-70, 74, 78, 82 and 84-86 are currently pending.

The status of the above-captioned application in light of the June 25, 2008 Office Action is as follows:

(A) Applicant was requested to point out references believed to be of particular relevance to the claimed invention;

(B) Claims 76 and 89 were objected to;

(C) Claims 74 and 82 were allowed, and claims 13 and 48 were indicated to be allowable if written to be in independent form;

(D) Claims 40-43 and 45-55 were rejected under 35 U.S.C. § 112, second paragraph;

(E) Claims 19, 20, 25, 26, 32, 35-38, 78, 79, 86, 88 and 89 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication US2002/0091419 to Firlik et al. ("Firlik"); and

(F) Claims 1, 4-7, 9-12, 14-18, 21-23, 27, 33, 34, 39-43, 45-47, 55, 72, 73, 75, 76, 80, 81, 83 and 87 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Firlik in view of one or more of the following references: U.S. Patent Publication

No. US2004/0082847 to McDermott ("McDermott"), an article titled "Functional Magnetic Resonance Imaging," by Binder ("Binder") and an article titled "Quantitative Comparison of Language Deficits Produced By Extraoperative Electrical Stimulation of Broca's, Wernicke's, and Basel Temporal Language Areas," by Schaffler et al. ("Schaffler").

The undersigned attorney would like to thank the Examiner for engaging in a telephone interview on October 24, 2008 to discuss the outstanding Office Action and a proposed new claim. The following remarks summarize and expand upon the points discussed during the October 24, 2008 telephone interview. Accordingly, applicants respectfully request that this paper constitute applicants' interview summary. If the Examiner notices any deficiencies in this regard, she is encouraged to contact the undersigned attorney.

In an effort to expedite prosecution of the present application, and without prejudice to pursuing cancelled claims and/or amended claims in unamended or other forms, the proposed new claim discussed in the October 24, 2008 telephone interview has not been added to the application, and all the pending claims have been written to include allowable subject matter or to depend from claims that include allowable subject matter.

A. Response to the Examiner's Request for Particular References

During the October 24, 2008 telephone interview, the Examiner requested that applicants identify any foreign patent references or non-patent literature references that may be of particular relevance to the pending claims. The Examiner indicated that applicants' response can be limited to foreign and non-patent references, as such references are typically not text-searchable by the Examiner, while U.S. patents and pending applications typically are. To the best of the undersigned attorney's belief, none of the foreign patent publications and non-patent literature references of record in

the present application are more material than those already identified by the Examiner and applied against the claims in this application. Nonetheless, the undersigned attorney wishes to draw the Examiner's attention to two references previously cited in an Information Disclosure Statement filed by the applicants on October 18, 2004: one by Gladstone et al., titled "Enhancing Recovery After Stroke with Noradrenergic Pharmacotherapy: A New Frontier?," and the other by Walker-Batson et al., titled "Amphetamine Paired With Physical Therapy Accelerates Motor Recovery After Stroke – Further Evidence." Both references are directed to neurological recovery assisted by pharmacological agents. In addition, applicants include an article by Cao et al., titled "Cortical Language Activation in Stroke Patients Recovering From Aphasia With Functional MRI," along with several pending and issued U.S. applications, in an IDS filed herewith. While the undersigned attorney does not believe that these references are more material than other references already applied in rejections to the pending claims, these references are identified in a good-faith effort to comply with the Examiner's request.

B. Response to the Claim Objections

Claims 76 and 89 have been cancelled and accordingly, the objections to these claims are now moot.

C. Response to the Indication of Allowable Subject Matter

Claims 74 and 82 have been allowed and claim 82 has been amended to correct typographical errors. Claim 1 has been amended to include the subject matter of allowable claim 13, and claim 40 has been amended to include the allowable subject matter of claim 48. Claims 13 and 48 have been cancelled and accordingly, the objections to these claims are now moot.

D. Response to the Section 112 Rejections

Claim 40 has been amended to clarify the claimed subject matter, in particular, to clarify the antecedent basis for the phrase "locations of all the stimulation sites." Accordingly, the Section 112 rejections of claims 40-43, 45-47, and 49-55 should be withdrawn. Claim 48 has been cancelled and accordingly, the Section 112 rejection of claim 48 is now moot.

E. Response to the Section 102 Rejections

All of the claims rejected under Section 102 have been cancelled or amended to depend from allowable claims, without commenting on or conceding the merits of the outstanding rejections of these claims. Accordingly, the Section 102 rejections of these claims are either moot or should be withdrawn.

F. Response to the Section 103 Rejections

All the claims rejected under Section 103 have either been cancelled or amended to depend from allowable claims, without commenting on or conceding the merits of the outstanding rejections of these claims. Accordingly, the Section 103 rejections are either moot or should be withdrawn.

G. Conclusion

In light of the foregoing amendments and remarks, applicants believe the present application is in condition for allowance. If the Examiner notices any informalities or other matters that may be expediently handled by telephone, she is encouraged to contact the undersigned attorney to resolve such matters.

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Respectfully submitted,

By 

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